

PURCHASING UPDATE



division of
**Purchasing and
General Services**

Terms and Conditions

Cat Turner, State Procurement Manager

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Terms and Conditions can be overwhelming to both interested vendors and the procurement unit running the solicitation. It is important as a purchasing agent that you are familiar with any standard terms and conditions that your entity uses. It is also important to conduct periodic reviews to ensure everything is up to date.

Both 63G-6a-603(2)(e) and 63G-6a-703(2)(e) require that a procurement unit utilizing an invitation for bids process or a request for proposals process respectively, post the terms and conditions that a procurement unit intends to include in a contract resulting from the procurement process.

Code and Rule also encourages procurement units to establish standard contract clauses to assist the procurement unit and to help contractors and potential contract to understand applicable requirements (63G-6a-1202).

Q. Why is this important?

A. We want interested vendors to know what the contract requirements might be and if there are any additional costs that a vendor might need to factor into their bid (such as insurance or bonds).

Q. When you send a request for quotes out to vendors, should you also include the terms and conditions?

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JUST THE FAQs

PC Stores

By: Brent Bowden, Purchasing Agent

Q: How do I know which contract to request a quote from?

A: The best way to cast a wide net to find information about which contract best fits your needs is to use the “Get a Quote” button on the top right of the contract homepage. This feature will email all vendors that are in that specific portfolio. This is the most efficient way to ask your question to multiple vendors at once. Include all pertinent information that you are looking for, and vendors will respond with their offerings.

Q: How do you ask questions pertaining to a specific contract?

A: The best way to answer questions about a specific contract is to use the “Need Help with Contract” button on the upper right corner of the specific contract in question. This feature will generate an email to the Purchasing Agent that has been assigned as the contract manager. Again, include as much detail as possible so that the Purchasing Agent can assist you with your questions.

If any questions arise regarding the PC Stores contracts, please contact Brent Bowden at bbowden@utah.gov or 801-957-7144.

A. Absolutely - For the same reason listed above!

Q. Should you review the terms and conditions before a solicitation to ensure everything is applicable to the solicitation?

A. Yes, depending on what you are purchasing, not all terms and conditions may apply. You also may wish to adjust the insurance requirements (with approval from your risk manager) depending on the scope of the contract. However, if you remove certain terms and conditions (with approval from your legal counsel), make sure you search the rest of the document to ensure those specific terms and conditions are not referenced in other sections.

Q. How should a vendor provide exceptions to terms and conditions published in a RFP (if permitted by the procurement unit)?

A. R33-7-104 states that Offerors requesting exceptions and/or additions to the Standard Terms and Conditions published in a RFP must include the exceptions and/or additions with the proposal response. This rule goes into much more detail about how exceptions should be managed.



Part 15: Systematic Guide to Procurement of Design Professional Services

State Purchasing Staff

63G-6a-103(24) defines design professionals as individuals licensed as an architect, professional engineer, professional land surveyor or commercial interior designer. To this extent, design professional services are those within the scope of architectural, engineering, master planning and commercial interior design. Procurements of these services should be governed by Part 15 of the Utah Procurement Code or R33-5-105 (if less than \$100,000 per project).

In an Invitation for Bids (IFB) the driving factor in the procurement is the cost. The Request for Proposals (RFP) process is appropriate where other factors in addition to cost would be considered in making the selection that is most advantageous to the procurement unit. However, 63G-6a-702(2) still points towards part fifteen for procurement of architect-engineer services.

In procuring design professional services, the procurement unit should:

1. Publicly announce all requirements for those services through a request for statement of qualifications.
2. Evaluate the statements of qualification
3. Determine a fair and reasonable price

The request for statement of qualifications may not include a request for a cost component for the design professional services.

However, the public announcement of the statement of qualification should include the established criteria by which the qualifications of a design professional will be evaluated.

The evaluation committee shall consist of at least three (3) members without a conflict of interest with any of the design professionals and can fairly evaluate each statement of qualifications. The evaluation committee should consider no fewer than three design professionals statements of qualifications. The committee should rank the top three highest scoring design professionals, in order of their scores, for entering into fee negotiations.

The cost formula for design professional services is the fair and reasonable compensation. In determining the fair and reasonable cost, the procurement unit should take into account the estimated values, scope and professional nature of the services, as well as the complexity of the project. The contract should be awarded to the qualified design professional whose statement of qualification earned the highest score and reached an agreeable fair and reasonable price. If for any reason, the parties cannot agree on a fair price, the procurement unit should formally terminate the discussion with that design professional; and undertake discussions with the next highest scoring qualified design professional.



End User Agreements

Cat Turner, State Procurement Manager

Some of you may have noticed that when you use a vendor from a statewide cooperative contract, that the vendor requires your entity to sign a secondary service or end user license agreement. It is important to complete a thorough review of these agreements before your entity signs. There could be fees for cancelling service early or terms and conditions that are added on to the State's terms and conditions that you are now agreeing to. Please make sure to coordinate cancelling these agreements with the expiration of the cooperative contract.

There is some new language in the State's terms and conditions that is being added to new statewide cooperative contracts. As old agreements expire and new agreements are

executed, this will hopefully make end user agreements more transparent. This language includes that the term of the agreement may not exceed the term of the overall contract and may not be amended or changed without approval from the Division of Purchasing. Eligible Users will also not be responsible or obligated for any early termination fees if the agreement terminates as a result of completion or termination of the overall contract.

If you have any questions on end user agreements or are asked to complete one and want our office to review it, please don't hesitate to send it our way.



Spotlight Article



Camille Clarke

Greetings! I'm Camille Clarke and am very excited to be working for the Division of Purchasing. My career with the state began in 2014 and my background is in finance and social services. My little family consists of my husband, daughter and three cats (yes, I am a crazy cat lady). My current obsessions are cooking, weightlifting, comics and gardening.

Q and A

Q. What's the best vacation you have been on?

A. My husband is from England, so it is always a joy when we can go back and visit his family. The food is amazing and the scenery is beyond gorgeous. Visiting historical sites is also a bonus.

A. Large bodies of water (thalassophobia). Who knows what's really down there!

Q. If you could have dinner with one famous person, who would it be?

A. Nikola Tesla

TRAINING

BROWN BAG LEARNING SERIES

DATE: August 18 , 2022

TIME: 12:00 PM —1:00 PM

TOPIC: TBD

PLACE: Webinar

NIGP MULTI-STATE MEETING

DATE: September 8-9 , 2022

TIME: 8:00 AM —2:00 PM

TOPIC: Agenda to be provided

PLACE: In Person/Webinar

How to Receive the Purchasing Update Newsletter

Did you receive this newsletter from a co-worker? Do you want to receive the Purchasing Update directly? Please send an email to Jessika Huhnke, jessikahuhnke@utah.gov

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Hours: 8:00 am—5:00 pm M-F

